FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

Civil Revision Application No.75/2007
(Gangabai Gopaldas Mohta Vs. Lalitkumar Purushottamdas Mohta & ors.)

Appeal	District :
Application No.	of 200
Writ petition	

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

Mr. C.A. Joshi, Adv. for the applicant.

CORAM : Smt. Vasanti A. Naik, J.
DATED : 20th September, 2007.

Heard Shri Joshi for the applicant.

The non-applicants had filed a suit for partition and separate possession against the present applicant and other members of the Hindu Undivided Family. The suit was filed in the year 1981. Since some of the properties were not included in the suit filed by the non-applicants in the year 1980-81, the applicant filed a separate suit for partition and possession of the HUF property in the year 1991, which was registered as Special Civil Suit NO. 117/1991. The non-applicants filed an application under Section 24 of the Code of Civil Procedure for transferring Regular Civil Suit No. 3366/2001 from the Court of 14th Joint Civil Judge, Junior Division, Nagpur, to the Court of Joint Civil Judge, Senior Division, Nagpur. Since the non-applicants were permitted to serve the applicant by substituted service by issuing a notice by paper publication, the District Judge, Nagpur, dealt the application under Section 24 of the Code of Civil

Procedure and by an order dated 17/4/2007, allowed the same.

The only submission made on behalf of the applicant is that the applicant is an extremely old lady and though the notice of the application under Section 24 of the Code of Civil Procedure was published in the daily newspaper, she was not able to read the same due to old age and had, consequently, not opposed the application under Section 24 of the Code of Civil Procedure. The counsel for the applicant, therefore, submitted that the order dated 17/4/2007 is liable to be set aside.

The submissions made on behalf of the applicant are not well founded. Since the applicant could not be served by regular mode of service, the Court had permitted the non-applicants to serve the applicant by substituted service. The notice of the application under Section 24 of the Code of Civil Procedure was published in the daily newspaper and, therefore, it was a proper service in the eye of law. The order passed by the District Judge, Nagpur on 17/4/2007, therefore, cannot be set aside on the grounds raised in this application.

For the reasons aforesaid, civil revision application is dismissed with no order as to costs.

JUDGE

RMP